

# Virginia Administrative Code

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## CHAPTER 315

### VIRGINIA IMPORTED FIRE ANT QUARANTINE FOR ENFORCEMENT OF THE VIRGINIA PEST LAW

#### **2VAC5-315-10. Declaration of quarantine.**

A quarantine is hereby established to restrict the movement of certain articles capable of transporting the imported fire ant into unregulated areas of the state unless such articles comply with the conditions specified herein.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-20. Purpose of quarantine.**

The imported fire ant is an introduced species that is notorious for its aggressive behavior, ferocious sting, and the damage it causes to several agricultural commodities. The imported fire ant has become established in portions of the Commonwealth, and has the potential to spread to uninfested areas by natural means or through the movement of infested articles. The purpose of this quarantine is to prevent the artificial spread of the imported fire ant to uninfested areas of the state by regulating the movement of those articles that pose a significant threat of transporting the imported fire ant.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-30. Definitions.**

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Certificate" means a document issued by an inspector or person operating in accordance with a compliance agreement to allow the movement of regulated articles to any destination.

"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services.

"Compliance agreement" means a written agreement between a person engaged in growing, handling, receiving, or moving regulated articles and the Virginia Department of Agriculture and Consumer Services, the United States Department of Agriculture, or both, wherein the former agrees to comply with the requirements of the compliance agreement and comply with the provisions of this regulation.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Imported fire ant" means the live insect, in any life stage, known as the imported fire ant, *Solenopsis invicta* Buren (commonly known as Red Imported Fire Ant) and *Solenopsis richteri* Forel (commonly known as Black Imported Fire Ant), and hybrids of these species.

"Infestation" means the presence of the imported fire ant or the existence of circumstances that make it reasonable to believe that the imported fire ant is present.

"Inspector" means an employee of the Virginia Department of Agriculture and Consumer Services or other person authorized by the Commissioner of the Virginia Department of Agriculture and Consumer Services to enforce the provisions of this quarantine or regulation.

"Limited permit" or "permit" means a document issued by an inspector to allow the movement of regulated articles to a specific destination.

"Moved," "move," or "movement" means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

"Noncompacted soil" means soil that can be removed from an article by brisk brushing or washing.

"Person" means the term as defined in § 1-230 of the Code of Virginia.

"Regulated area" means the locality or area listed in 2VAC5-315-50 of this quarantine.

"Soil" means, for the purpose of this regulation, any nonliquid combination of organic or inorganic material, or both, in which plants can grow.

"Soil-moving equipment" means any equipment used for moving or transporting soil, including, but not limited to, bulldozers, backhoes, dump trucks, or road scrapers.

"Virginia Pest Law" means the statute set forth in Chapter 7 (§ 3.2-700 et seq.) of Title 3.2 of the Code of Virginia.

#### Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-40. Regulated articles.**

The following articles are regulated under the provisions of this quarantine and shall not be moved out of any regulated area in Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Any life stage of imported fire ant.
2. Soil, except potting soil that is shipped in original containers after commercial preparation, and soil samples shipped to approved laboratories.
3. Plants with roots with soil attached, or roots and rhizomes of plants with soil attached, except plants maintained indoors in a home or office environment and not for sale.
4. Grass sod.
5. Used soil-moving equipment unless free of all noncompacted soil.
6. Used farm equipment unless free of all noncompacted soil.
7. Hay and straw, including pine straw, that has been stored in direct contact with the ground.

8. Honey bee hives that have been in direct contact with the ground, including hive stands containing soil.
9. Logs, pulpwood and stump wood with soil attached.
10. Any other article or means of conveyance when it is determined by an inspector that it presents a risk of spread of the imported fire ant.

#### Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-50. Regulated areas.**

The following areas in Virginia are quarantined for imported fire ant:

The entire counties of:

James City

York

The entire cities of:

Chesapeake

Hampton

Newport News

Norfolk

Poquoson

Portsmouth

Suffolk

Virginia Beach

Williamsburg

## Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

## Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

### **2VAC5-315-60. Conditions governing the intrastate movement of regulated articles.**

A. Movement within regulated areas - movement of a regulated article solely within the quarantined areas is allowed without restriction.

B. Movement from regulated areas to nonregulated areas - movement of a regulated article that originates from within the quarantined areas to an area outside of the quarantined areas is allowed only if the regulated article is accompanied by a certificate or limited permit issued in accordance with 2VAC5-315-70 and attached in accordance with 2VAC5-315-100.

C. Movement from nonregulated areas through regulated areas - regulated articles that originate outside of the quarantined areas may move through the quarantined areas under the following conditions:

1. With a certificate or limited permit issued in accordance with 2VAC5-315-70 and attached in accordance with 2VAC5-315-100; or
2. Without a certificate or limited permit if:
  - a. Accompanied by a waybill that indicates the point of origin of the regulated article;
  - b. The regulated article is moved directly through the regulated area without stopping, except for refueling or due to traffic conditions; or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by the imported fire ant; and
  - c. The regulated article has not been combined or commingled with other articles so as to lose its individual identity.

D. Movement from regulated areas through nonregulated areas - regulated articles that originate from within the quarantined areas may travel through the nonquarantined areas to a destination that is quarantined under the following conditions:

1. With a certificate or limited permit issued in accordance with 2VAC5-315-70 and attached in accordance with 2VAC5-315-100; or
2. Without a certificate or limited permit if:
  - a. Accompanied by a waybill that indicates the point of origin of the regulated article;
  - b. The regulated article is moved directly through the nonregulated area without stopping, except for refueling or due to traffic conditions; or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by the imported fire ant; and
  - c. The regulated article has not been combined or commingled with other articles so as to lose its individual identity.

#### Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-70. Issuance and cancellation of certificates and limited permits.**

A. Certificates and limited permits may be issued by an inspector for the movement of regulated articles to any destination within Virginia when:

1. The regulated articles have been examined by the inspector and found to be apparently free of the imported fire ant;
2. The regulated articles have been grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, would prevent an infestation or destroy all life stages of imported fire ant;
3. The regulated articles are to be moved in compliance with any additional conditions deemed necessary under the Virginia Pest Law to prevent the spread of the imported fire ant; and
4. The regulated articles are eligible for unrestricted movement under all other domestic plant

quarantines and regulations applicable to the regulated articles.

B. Certificates may be issued by any person operating under a compliance agreement for the movement of regulated articles to any destination within Virginia when:

1. The regulated articles have been examined by any person operating under a compliance agreement and found to be apparently free of the imported fire ant;
2. The regulated articles have been grown, produced, manufactured, stored, or handled in such a manner, and following all requirements of the compliance agreement, that would prevent an infestation or destroy all life stages of imported fire ant;
3. The regulated articles are to be moved in compliance with any additional conditions deemed necessary under the Virginia Pest Law to prevent the spread of the imported fire ant; and
4. The regulated articles are eligible for unrestricted movement under all other domestic plant quarantines and regulations applicable to the regulated articles.

C. Any certificate or limited permit that has been issued or authorized may be withdrawn by the inspector orally or in writing if the inspector determines that the holder of the certificate or limited permit has not complied with all conditions for the use of the certificate or limited permit or with any applicable compliance agreement. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing and communicated to the certificate or limited permit holder as promptly as circumstances allow.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

**2VAC5-315-80. Compliance agreements and cancellation.**

A. Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person understands that person's requirements and

obligations under this quarantine. The agreement shall stipulate safeguards that must be maintained against the establishment and spread of imported fire ants and the conditions governing the movement of regulated articles.

B. Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this quarantine. If the cancellation is oral, the cancellation and the reasons for the cancellation shall be confirmed in writing and communicated to the person who entered into such compliance agreement as promptly as circumstances allow.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

**2VAC5-315-90. Assembly and inspection of regulated articles.**

A. Any person, other than a person authorized to issue certificates under 2VAC5-315-70, who desires to move a regulated article intrastate and is seeking a certificate or limited permit shall apply for inspection of the regulated article as far in advance as practical, but no less than five business days before the regulated articles are to be moved.

B. The regulated articles must be assembled at the place and in the manner the inspector designates as necessary to facilitate inspection and shall be safeguarded from infestation.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

**2VAC5-315-100. Attachment and disposition of certificates and limited permits.**

A. During the intrastate movement, a certificate or limited permit must be attached at all times to the



outside of the container that contains the regulated article or to the regulated article itself. The requirements of this section may also be met by attaching the certificate or limited permit to the consignee's copy of the waybill, provided the regulated article is sufficiently described on the certificate or limited permit and on the waybill to facilitate the identification of the regulated article.

B. The certificate or the limited permit for the intrastate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article. A copy of the certificate or the limited permit must be retained by the sender of the regulated article at the place of shipment.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-110. Inspection and disposal of regulated articles and pests.**

Upon presentation of official credentials, an inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of or require disposal of regulated articles as provided in the Virginia Pest Law.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-120. Nonliability of the department.**

The department shall not be liable for any costs incurred by third parties whose costs result from, or are incidental to, inspections required under the provisions of the quarantine.

Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

#### **2VAC5-315-130. Revocation of this regulation.**

This regulation may be revoked by the board when such party is satisfied that the need for this quarantine no longer exists. Such revocation shall take place upon the date specified by the board in the order that revokes this regulation.

#### Statutory Authority

§§ 3.2-703 and 3.2-704 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 25, Issue 26, eff. August 31, 2009.

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